

REMARKS

Applicants submit this Amendment in reply to the Office Action dated October 29, 2003. By this Amendment, Applicants amend the specification and the drawings, and amend claim 1 to more clearly define the claimed invention. Before entry of this Amendment, claims 1-22 were pending in this application. After entry of this Amendment, claims 1-22 remain pending. The originally-filed specification, claims, abstract, and drawings fully support the subject matter of the amended specification, drawings, and claim 1. No new matter is introduced.

On page 2 of the Office Action, an indication was given that a copy of the operator manual listed on the Form PTO 1449 filed with the Information Disclosure Statement was not found in the present application or its parent, and thus was not considered. Applicants have filed herewith an Information Disclosure Statement including a copy of the aforementioned operator manual. Accordingly, Applicants respectfully request consideration of the operator manual and an indication on the Form PTO 1449 that the operator manual has been considered.

On page 2 of the Office Action, the drawings were objected to. Applicants submit herewith new Fig. 33 which includes a third device port and a second flexible flow valve. Applicants also amend the specification to reflect the addition of new Fig. 33. Support for new Fig. 33 and its corresponding portions of the specification can be found at least in paragraph [087] bridging pages 25 and 26 of the originally-filed specification; Figs. 24, 25A, and 28; and claims 21-22. No new matter is introduced. Accordingly, Applicants respectfully request withdrawal of the drawings objection.

On pages 2-4 of the Office Action, claims 1, 2, 12, 13, and 17-20 were rejected under 35 U.S.C. §102(b) as being anticipated by Zinnanti (U.S. Patent No. 5,449,357) ("Zinnanti"); claims 1, 12, 13, and 17-20 were rejected under 35 U.S.C. §102(b) as being anticipated by Lopez (U.S. Patent No. 6,083,194) ("Lopez"); claims 1, 12, 13, and 17-20 were rejected under 35 U.S.C. §102(e) as being anticipated by Roun et al. (U.S. Patent Application Publication No. 2002/0078963 A1) ("Roun"); and claims 3-11, 14-16, 21, and 22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Roun. Applicants respectfully traverse these rejections.

None of the cited references disclose or suggest the invention as claimed in independent claim 1. For example, independent claim 1, as amended, recites a suction adapter for use with first and second medical devices capable of accommodating suction including, among other aspects, "a flexible flow valve having an opening positioned in both a first flow path between the first device port and the second device port and a second flow path between the first device port and the suction port, the flexible flow valve permitting simultaneous fluid flow between the suction port and both the first and second device ports." None of the cited references disclose or suggest at least these aspects of the claimed invention either alone or in combination with the other aspects of the claimed invention.

Regarding the rejection of claims 1, 2, 12, 13, and 17-20 as being anticipated by Zinnanti, the Examiner asserted on pages 2-3 of the Office Action that the "reference discloses a manifold (12), suction port (68), device port (32), second device port (34) and a valve (Fig. 9)." Even assuming, *in arguendo*, that Zinnanti discloses the aspects asserted by the Examiner, Zinnanti still does not disclose or suggest at least the

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claimed positioning of the valve, i.e., "a flexible flow valve having an opening positioned in both a first flow path between the first device port and the second device port and a second flow path between the first device port and the suction port."

Zinnanti discloses a cautery instrument body 12 with a main passage 30 running therethrough. A cautery electrode 16 is connected to female threaded socket 32 of the body 12, and an electrode connector 60 is connected to female threaded socket 34 of the body 12. (Col. 3, line 55 through col. 4, line 7). The body 12 also has a valve 84 which intersects vacuum passage 72 and main passage 30. (Col. 4, lines 17-21). As can be seen in Figs. 7 and 9, depending on the position of the diagonal passage 96 of the valve 84, the vacuum passage 72 is interconnected to the main passage 30 via the diagonal passage 96. (Col. 4, lines 47-52). Thus, while Zinnanti may disclose the main passage 30 between threaded female sockets 32, 34 defining a flow path, Zinnanti does not disclose the valve 84 having an opening positioned in the flow path. Accordingly, Zinnanti does not disclose or suggest a "flow valve having an opening positioned in . . . a first flow path between the first device port and the second device port." For at least these reasons, Applicants respectfully request withdrawal of the rejection based on Zinnanti.

Regarding the rejection of claims 1, 12, 13, and 17-20 as being anticipated by Lopez, the Examiner asserted on page 3 of the Office Action that "Lopez discloses a manifold, suction port (31), first device port, second device port and a valve." Even assuming, *in arguendo*, that Lopez discloses the aspects asserted by the Examiner, Lopez still does not disclose or suggest at least a "flexible flow valve permitting

simultaneous fluid flow between the suction port and both the first and second device ports," as recited in independent claim 1.

Lopez discloses a medical connector 10 with a primary conduit 11 having an inlet 13 and an outlet 14, a secondary conduit 12, and a valve 20 disposed at the junction 16 between conduits 11 and 12. In the configurations shown in Figs. 1, 4, 7a, 8a, 9a, 10a, 11a, 12a, 13a, and 14a, Lopez discloses valve 20 blocking any flow between secondary conduit 12 and primary conduit 11. (Col. 5, lines 45-56). In the configurations shown in Figs. 3, 5, 7b, 8b, 9b, 10b, 11b, 12b, 13b, and 14b, tube 24 of valve 20 collapses, blocking the flow path between inlet 13 and outlet 14. (Col. 6, line 54 through col. 7, line 1). In the remaining configuration shown in Fig. 2, there may be a pathway between inlet 13, outlet 14, and secondary conduit 12. However, even in this configuration "primary fluid flow from inlet 13 into secondary conduit 12 is prevented." (Col. 6, lines 23-25). Thus, none of the configurations of Lopez permit simultaneous fluid flow between secondary conduit 12 and both inlet 13 and outlet 14 of primary conduit 11. For at least these reasons, Applicants respectfully request withdrawal of the rejection based on Lopez.

Regarding the rejection of claims 1, 12, 13, and 17-20 as being anticipated by Rouns, the Examiner asserted on page 3 of the Office Action that the "reference discloses a manifold with a suction port (112), first device port (156), second device port (124 or 138), and a valve 142." Even assuming, *in arguendo*, that Rouns discloses the aspects asserted by the Examiner, Rouns still does not disclose or suggest "a flexible flow valve having an opening positioned in both a first flow path between the first device port and the second device port and a second flow path between the first device port

and the suction port, the flexible flow valve permitting simultaneous fluid flow between the suction port and both the first and second device ports," as recited in independent claim 1.

Rouns discloses a respiratory suction apparatus 100 with a suction catheter 102. As an initial matter, suction flow does not occur through proximal end 112. At least middle seal 118, distal seal 130, suction catheter 102, and antimicrobial agents disposed in proximal chamber 120 restrict flow through end 112. Instead, suction occurs through the distal end of catheter 102.

Rouns discloses the suction catheter 102 inserted through proximal seal 128, passageway 116, middle seal 118, distal chamber 122, distal seal 130, valve retainer 138, flapper valve 142, T-shaped manifold 144, and into the respiratory tract of a patient. (Figs. 1-2; paragraphs [0029]-[0036]). Thus, during this placement of the suction catheter 102 through the respiratory suction apparatus 100, there are several possible flow paths between the suction catheter 102 and various alleged device ports. As will be described, however, simultaneous fluid flow between catheter 102 and two alleged device ports will not occur during catheter insertion.

In the configuration shown in Fig. 2, for example, there may be a flow path between irrigation housing 136 and suction catheter 102, however, there is no flow path between suction catheter 102 and any of lock ring 156, lock ring 162, or housing member 126. The flow path between the lock rings 156, 162 and the suction catheter 102 is blocked by flapper valve 142, as flapper valve 142 forms a closed seal with a valve retainer 138. In addition, the antimicrobial agent in proximal chamber 120 and the

middle seal 118 block any potential flow path between housing member 126 and suction catheter 102.

When the suction catheter 102 is extended past the flapper valve 142, there may be flow paths between the suction catheter 102 and both of the lock rings 156, 162. First, however, flapper valve 142 is not positioned in those flow paths (i.e., there is no valve positioned as claimed). Second, in this configuration there is no flow path between irrigation member 136 and suction catheter 102 as the potential flow path is blocked by the suction catheter 102 and flapper valve 142. The irrigation member 136 is for cleaning the catheter 102 after use and withdrawal of catheter 102. Accordingly, because Rouns does not disclose or suggest "a flexible flow valve having an opening positioned in both a first flow path between the first device port and the second device port and a second flow path between the first device port and the suction port, the flexible flow valve permitting simultaneous fluid flow between the suction port and both the first and second device ports," Applicants respectfully request withdrawal of the rejections based on Rouns.

Applicants do not necessarily agree with the comments on page 3 of the Office Action regarding the nature of dependent claims 17-20, or the rejection of the dependent claims on page 4 of the Office Action. Applicants decline to subscribe to those comments and characterizations. All of those claims, however, are patentably distinguishable from the references for the same reasons described above.

Applicants further submit that claims 2-22 depend from independent claim 1, and are therefore allowable for at least the same reasons that independent claim 1 is allowable. In addition, at least some of the dependent claims recite unique

combinations that are neither taught nor suggested by the cited references, and therefore at least some also are separately patentable.

In view of the foregoing remarks, this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

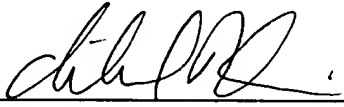
In discussing the specification, claims, and drawings in this Amendment, it is to be understood that Applicants are in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification and/or shown in the drawings. Rather, Applicants are entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: January 28, 2004

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Attachment: Sheet including Fig. 33.